

Published: Jan. 6, 2016, *Kokomo Tribune* [Page: A4]

http://www.kokomotribune.com/indianakokomo/house-of-burgess-there-s-no-justice-for-tamir-rice/article_409a5d36-b3e7-11e5-a6b2-5b541b41c3ef.html



KT photo | **Tim Bath**

House of Burgess: There's no justice for Tamir Rice

Grand jury fails to indict Cleveland police officers

By Rob Burgess
Tribune columnist

On Nov. 22, 2014, it was a warm Cleveland, Ohio, afternoon, reaching almost 50. Melting snow covered Cuddell Recreation Center's lawn. An older man in the park called 911, reporting a black "guy with a pistol ... pointing it at everybody." He said it was "probably fake, but ... it's scaring the [expletive] out of me. ... Probably, a juvenile. ... I don't know if it's real."

The dispatcher relayed: "Black male ... keeps pulling a gun out of his pants and pointing it at people."

Surveillance videos released by the Cleveland Police Department show the frosted gazebo and a line of posts separating grass from sidewalk and road. A lone, dark figure, Tamir Rice, 12, walks around and plays with an airsoft gun without the orange safety tip. He sits at one of the three benches under the gazebo, his head resting on the table. Sensing the approaching police car, he makes his way around.

In a flash, the cruiser appears, skidding on the grass. Before stopping feet away, Timothy Loehmann, 26, who had been with the CPD for eight months, swings the passenger door open. He had resigned (before he could be fired) from the Independence, Ohio, police in December 2012.

“Supervisors described an emotionally unstable recruit with a ‘lack of maturity’ and ‘inability to perform basic functions as instructed’ during a weapons training exercise,” reported the Los Angeles Times’ Christine Mai-Duc Dec. 3, 2014.

At the wheel was Frank Garmback, 46, who had been with the CPD since 2008. The city paid \$100,000 to acquitted suspect Tamela Eaton, 39, in an excessive force lawsuit against Garmback in 2010, reported The Plain Dealer’s John Caniglia Dec. 4, 2014.

Car still rolling, Loehmann lets off two shots point blank. Tamir drops, replica tucked in his waistline. Neither officer administers first aid, instead tackling and handcuffing Tamir’s nearby 14-year-old sister who tried to run

to his side. Minutes later, nearby officers arrive and offer Tamir medical help. He died the next day.

Dec. 28, 2015, Cuyahoga County Prosecutor Timothy McGinty announced a grand jury had declined to indict the officers. "Given this perfect storm of human error, mistakes and miscommunication by all involved that day, the evidence did not indicate criminal conduct by police," stated McGinty. The Rice family stated they did not accept his condolences.

"McGinty deliberately sabotaged the case, never advocating for my son, and acting instead like the police officers' defense attorney," wrote Tamir's mother, Samaria, in a Dec. 29, 2015, press release.

Thursday, I conducted a phone interview with a lawyer for one of the three law firms representing the Rices, Billy Joe Mills of FirmEquity in Chicago. He said they had been hired for the wrongful death suit now pending in U.S. District Court for the Northern District of Ohio, but had been pulled into the grand jury process. As it was a grand jury, not a trial jury, Mills said McGinty had control of the presentation.

"The framing of this information is totally in the hands of the prosecutor," said Mills. "It has a complete impact on the way the grand jurors ultimately decide."

I, myself, was once a 12-year-old Midwestern boy who played in public with BB rifles and pistols and toy guns minus safety caps. No one dialed 911. No one thought I was an adult. No one shot me.

“I used to be a white boy playing in a park with BB guns,” said Mills. “I remember playing in parks in the suburbs of Chicago. And no one felt threatened enough to call the police. And if they had ... they would have handled the situation in a much different way.”

After shooting Tamir, the officer describes him over the scanner as “maybe 20.” According to the National Rifle Association’s Institute for Legislative Action, Ohio “law does not prohibit the open carrying of firearms.” What was the perceived transgression?

“I would like to see open carry activists to get vocal on this issue,” said Mills. “If they were thinking he was an adult carrying a gun with no shooting happening at that moment, no hostage on their knees in the gazebo, what crime was Tamir Rice committing?”

Rob Burgess, Tribune night editor, may be reached by calling 765-454-8577, via email at rob.burgess@kokomotribune.com or on Twitter at twitter.com/robaburg.